



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2019-0568]**

**RIN 1625-AA08**

### **Special Local Regulation; Lake Havasu City, AZ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for the Havapalooza 2019 marine event that will be held on the navigable waters of Lake Havasu, Lake Havasu City, AZ. This action is necessary to provide for the safety of life on these navigable waters on Thompson Bay in Lake Havasu during a waterside concert on September 14, 2019. This rule prohibits spectators from anchoring, blocking, loitering or transiting through in the event area unless authorized by the Captain of the Port Sector San Diego or a designated representative.

**DATES:** This rule is effective from 10 a.m. to 8 p.m. on September 14, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0568 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Briana Biagas, Coast Guard; telephone 619-278-7656, email D11MarineEventsSD@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i><b>Federal Register</b></i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was not notified of this event’s date until June 4, 2019. It is impracticable to publish an NPRM because we must establish regulated area by September 14, 2019 and lack sufficient time to provide a reasonable comment period and consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the ***Federal Register***. Delaying the effective date of this rule would be contrary to the public interest because

immediate action is needed to ensure the safety of life on Lake Havasu.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1236). The Captain of the Port Sector San Diego (COTP) has determined that a large congregation of vessels in Thompson Bay associated with the Havapalooza 2019 marine event on September 14, 2019, poses a potential safety concern. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within Thompson Bay while the event is occurring.

### **IV. Discussion of the Rule**

This rule establishes a temporary special local regulation from 10 a.m. to 8 p.m. on September 14, 2019. This special local regulation establishes a spectator area covering all navigable waters of Thompson Bay shoreward of a line connected by the following points: Beginning at 34°27'55"N, 114°20'48"W (Point A); thence running southerly to 34°27'52"N, 114°20'49"W (Point B); thence running southeasterly to 34°27'49"N, 114°20'47"W (Point C); thence running southeasterly to 34°27'45"N, 114°20'43"W (Point D); thence running southeasterly to 34°27'40"N, 114°20'34"W (Point E) thence running southeasterly and ending at 34°27'37"N, 114°20'27"W (Point F). The duration of the regulated area is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled marine event. All non-event participants would be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

*A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. Vessel traffic can safely transit around this regulated area which would impact an approximately 17,000 square yard area of Thompson Bay from 8 a.m. to 10 p.m. Moreover, the Coast Guard would make a post in the Local Notice to Mariners with details on the regulated area.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic

impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the temporary regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions

that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary regulated area that would limit access to an approximately 17,000 square yard area of Thompson bay from 10 a.m. to 8 p.m. It is categorically excluded from further review under paragraph L61 in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## **PART 100 SAFETY OF LIFE ON THE NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add §100.1102T11-0568 to read as follows

### **§100.1102T11-0568 Special Local Regulation; Lake Havasu City, AZ**

- (a) **Location:** The following area is a special local regulation: all navigable waters of Thompson Bay shoreward of a line connected by the following points: Beginning at 34°27'55"N, 114°20'48"W (Point A); thence running southerly to 34°27'52"N, 114°20'49"W (Point B); thence running southeasterly to 34°27'49"N, 114°20'47"W (Point C); thence running southeasterly to 34°27'45"N, 114°20'43"W (Point D); thence running southeasterly to 34°27'40"N, 114°20'34"W (Point E) thence running southeasterly and ending at 34°27'37"N, 114°20'27"W (Point F).
- (b) **Effective period.** This section is effective from 10 a.m. to 8 p.m. on September 14, 2019.
- (c) **Regulations.** (1) In accordance with the general regulations in §100.35 of this part, entry into or remaining within this regulated area is prohibited unless authorized by the Captain of the Port Sector San Diego (COTP) or a designated representative.  
  
(2) Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 69 or by telephone at 562-447-0940.  
  
(3) Persons and vessels permitted to enter this area must transit at their slowest



safe speed and comply with all lawful directions issued by the COTP or the designated representative.

- (d) Information broadcasts. The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Local Notice to Mariners.

Dated: August 21, 2019.

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D. P. MONTORO,  
CAPTAIN, U.S. Coast Guard,  
Alternate, Captain of the Port Sector San Diego.

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